

**IT IS THE VENDOR'S RESPONSIBILITY TO CHECK FOR  
ADDENDUMS PRIOR TO SUBMITTING PROPOSALS**

## **NOTICE TO BIDDERS SPECIFICATION NO. 02-125**

The City of Lincoln intends to enter into contract and invites you to submit a sealed bid for:

### **CLEANING SERVICES FOR LINCOLN FIRE H.Q. OFFICES**

#### **MEETING OR EXCEEDING THE CITY OF LINCOLN SPECIFICATIONS**

Sealed bids will be received by the City of Lincoln, Nebraska on or before 12:00 noon **Wednesday, May 22, 2002** in the office of the Purchasing Agent, Suite 200, "K" Street Complex SW Wing, located at 440 South 8th Street, Lincoln, Nebraska 68508. Bids will be publicly opened and read aloud in the Bid/Conference Room located on the Ground Floor.

Bidders should take caution if U.S. mail or mail delivery services are used for the submission of bids. Mailing should be made in sufficient time for bids to arrive in the Purchasing Division, prior to the time and date specified above. Late bids will not be considered.

# **SPECIFICATIONS for CLEANING SERVICES FOR THE LINCOLN FIRE H.Q. FACILITY**

## ***GENERAL INFORMATION***

1. SCOPE OF THE PROJECT: Lincoln Fire here, in after referred to as the City; desires bids from interested firms, here in after referred to as contractor(s), to provide cleaning services for the Lincoln Fire Department Headquarters Office Building.
  - 1.1 The cleaning service shall include all labor, materials, machines, appliances and equipment necessary to provide and perform to the satisfaction of Assistant Fire Chief John Huff.
  - 1.2 Preference for award will be given to the Contractors whose bid substantially meet all of the required specifications, duties, terms and conditions as defined in this request.
  - 1.3 The first sixty (60) days of the contract period shall be a probationary period.
2. SITE VISIT A site visit should be arranged by all interested bidders by contacting the Fire H.Q. Office located at: 1801"Q" Street, Lincoln. To arrange the site inspection contact:  
**John Huff** at 441-8351 or his designated appointee.
  - 2.1 All interested contractors must visit the site to insure their proposal response is inclusive of all work to be performed.
  - 2.2 No subsequent financial adjustments will be authorized due to failure of the contractor to include work detailed in the specifications or conditions present at the site.
3. CONTRACTOR INSURANCE/BOND REQUIREMENTS: The successful contractor shall furnish to the City certificate(s) of insurance in the kinds and minimum amounts as detailed in the attached "Insurance Requirements for all City Contracts" within fourteen (14) days.
  - 3.1 Coverage shall remain in effect for the duration of the agreement, and the insuring company must agree to add the City of Lincoln as an additional insured, and notify them with 30 days written notice of cancellation, non-renewal, or material change in coverage.
  - 3.2 Also within that time period the successful bidder must:
    - 3.2.1 Furnish contract performance bond in a sum equal to two (2) monthly charges
4. NO USE OF TOBACCO PRODUCTS: The City does not allow smoking or the use of any tobacco products within it's facilities and on any property surrounding it's facilities.
  - 4.1 This ban applies to contractors and sub-contractors and their employees.
5. NO ALCOHOLIC BEVERAGES/ILLICIT DRUGS: The use or possession of alcoholic beverages or illicit drugs will not be permitted on the City's property.
  - 5.1 Any contract employee who reports for work showing evidence of an impaired condition shall not be permitted to remain on the premises.

- 5.1.1 The Contractor is completely responsible for monitoring his/her employees and will be held responsible for proper handling of suspected incidents of improper use of alcohol or drugs.

6. QUALIFICATIONS OF THE BIDDER: The City may investigate as deemed necessary to determine the ability of the bidder to perform the required work, and the bidder shall furnish to the City all such information and data for this purpose.

- 6.1 The City reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy that the bidder is qualified to carry out the obligations of the contract and to complete the work specified herein.
- 6.2 The City may require a verbal interview with one, some or all of the interested bidders.
- 6.3 No bidder will be considered who is not at the present time actively engaged in the performance of Contract Cleaning Services and who cannot clearly demonstrate to the satisfaction of the City his/her ability to satisfactorily perform the work in accordance with the requirements of this specification.
- 6.4 Bidder shall provide at least three references for other customers or firms who have similar needs to the City.
  - 6.4.1 References will be checked as well as any City/County Department/Agency currently using the Bidder's services.
  - 6.4.2 Information regarding the satisfaction of existing and past customers will be a consideration in the award of this project.

7. TERMINATION of CONTRACT

- 7.1 During Probationary period:
  - 7.1.1 The City reserves the right to terminate the contract at any time during the probationary period without cause, upon ten (10) days written notice.
- 7.2 For lack of appropriations:
  - 7.2.1 The City may terminate the contract as of August 31<sup>st</sup> of any fiscal year, should funds not be appropriated for the continuance of the contract into the following fiscal year.
  - 7.2.2 The City will give the contractor fifteen (15) days written notice of termination for lack of appropriated funds.
- 7.3 For cause:
  - 7.3.1 The City may terminate the Contract with a thirty (30) day written notice if the Contractor:
    - 7.3.2 Refuses or fails to supply enough properly skilled workers or proper equipment to satisfactorily provide complete Cleaning Services as requested.
    - 7.3.3 Fails to make payments to Suppliers or Subcontractors for materials and/or labor in accordance with the respective agreements between the Contractor and Subcontractors.
    - 7.3.4 Disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction over the Contract.
    - 7.3.5 If the Contractor's or Subcontractor's employees commit a breach of facility security rules.
    - 7.3.6 Otherwise commits a substantial breach of any provision of the Contract Document.

- 7.3.7 If the Janitorial services are found not to be in compliance with the terms and conditions of the Specification Document and accepted proposal, the City Agent shall notify the contractor of the complaint and non-compliance.
  - 7.3.8 The contractor shall be give twenty-four (24) hours to correct the cause of the complaint.
  - 7.3.9 If the city registers three(3) such complaints of non-compliance within any thirty (30) calendar day period, the city may cancel the contract for cause.
- 8. PROVIDED BY THE CITY: Materials provided by the City shall include: all restroom dispensers (paper, toilettissue, etc.); all consumable paper products; entrance mats and runners; and waste paper baskets and plastic liners. A reasonable supply of: lighting, power, gas, and water for use in the cleaning of the facility.
- 9. PROVIDED BY THE CONTRACTOR: All cleaning supplies (including: soaps, waxes, disinfectants, etc.), equipment (machines, buckets, mops, etc.), supplies (chemicals, applicators, rags, etc.) and labor to provide complete cleaning services as outlined in these specifications.
- 10. COMMUNICATION AND SUPERVISION: The contractor shall assign as supervisor or person of authority to coordinate all work performed for the City.
  - 10.1 Contractor's supervisor shall conduct a daily inspection of the premises to insure compliance with the required work.
  - 10.2 Contractor's supervisor shall confer at least once a month with the City's representative to insure that the work requested has been performed to the City's satisfaction.
    - 10.2.1 Cities Representative is John Huff and he can be reached at 441-8351.
  - 10.3 The work outlined in these specifications shall not begin prior to 4:00 p.m. Monday through Friday except for holidays (will be provided to the successful contractor (10 total days), and shall be completed prior to 7:00 a.m. Monday through Friday.
  - 10.4 The City shall issue keys to the facility to the successful contractor. The contractor must be bonded and shall be held strictly responsible for the keys issued.
    - 10.4.1 No keys shall be duplicated.
    - 10.4.2 In the event any key used by the contractor is lost, the contractor shall be responsible for the re-keying of the facility as directed by the City.
    - 10.4.3 The contractor shall be held solely responsible for the security of the facility while on the premises and is also responsible for leaving the facility secure after performance of the cleaning service.

11. APPROXIMATE SPACE: We estimate the square footage of cleaning space to be as follows:

11.1 In General 5,161 square feet of floor space As follows: approx.

11.1.1 Administrative Offices

Fire Chief	224 sq feet
Admin Sec.	168 sq feet
DC Admin	132 sq feet
Payroll Clerk	156 sq feet
DC EMS	196 sq feet
Admin Officer	154 sq feet
EMS Business Manager	196 sq feet
Office Assistant	117 sq feet
DC D2 Office	270 sq feet
Copier Room	60 sq feet
Break Room	96 sq feet
EMS Office	<u>468 sq feet</u>

Total Administrative Office approx 2,237 sq feet

11.1.2 Foyer/Hallway

Hallway	480 sq feet
Stairway with one (1) landing	210 sq feet
Upstairs	840 sq feet
Downstairs	224 sq feet
Mens Restroom	30 sq feet
Womens Rest room	30 sq feet
Conference Room	<u>620 sq feet</u>

Total Foyer approx 2,434 sq feet

11.1.3 Training Division

DC Training	336 sq feet
	<u>154 sq feet</u>

Total Training Div approx 490 sq feet

12. INDEPENDENT CONTRACTOR: It is understood by submission of this offer, the Bidder is an independent contractor and not an employee of the City for all purposes, including: wages, taxes, withholdings, benefits, employees relations, etc.

13. INDEPENDENT PRICE DETERMINATION: By signing and submitting this bid, the bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder prior to bid opening directly or indirectly to any other bidder or to any competitor; no attempt has been made, or will be made, by the bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

14. INDEMNIFICATION: The bidder shall indemnify and hold harmless the City, its members, its officers and employees from and against all claims, damages, losses, and expenses, including, but not limited to attorney's fees arising out of or resulting from the performance of the contract, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property other than goods, materials and equipment furnished under this contract) including the loss of use resulting therefrom; is caused in whole or part by any negligent act or omission of the bidder, any subcontractor, or anyone directly or indirectly employed by any one of them or anyone for whose acts made by any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder.
- 14.1 In any and all claims against the City or any of its members, officers or employees by an employee of the bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 14. shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the bidder or any subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

## CLEANING SPECIFICATIONS AND STANDARDS - WORKSHEET

	DESCRIPTION OF TASK AND EXPECTED FREQUENCY BID AMT:	ANNUAL OFFICES	ANNUAL FOYER	TOTAL
1.	<p>PLUMBING FIXTURES AND DISPENSER CLEANING: Shall be free of all deposits and stains so that the item is left without cleaning streaks, film, odor, or stains.</p> <p>AREA INVOLVED: All restrooms, toilets, sinks, showers and drinking fountains</p> <p>FREQUENCY: <b>Daily</b></p>	\$_____	\$_____	\$_____
2.	<p>SWEEPING: Properly swept floor is free of dirt, dust, grit, lint, and debris, except imbedded dirt and grit. Corner and edges shall also be clean.</p> <p>AREA INVOLVED: All hard surface floors including entry ways</p> <p>FREQUENCY: <b>Daily</b></p>	\$_____	\$_____	\$_____
3.	<p>TRASH REMOVAL: All waste receptacles shall be emptied and the contents shall be disposed of in the proper designated container provided by the City. All used trash liners are to be replaced as needed.</p> <p>AREA INVOLVED: All waste receptacles including those located in the backroom, patio, front door and cigarette receptacles</p> <p>FREQUENCY: <b>Daily</b></p>	\$_____	\$_____	\$_____
4.	<p>VACUUM: Properly vacuumed floor is free of all dirt, dust, grit, lint and debris. Corners and edges shall also be cleaned.</p> <p>AREA INVOLVED: All carpeted surfaces and provided entrance mats</p> <p>FREQUENCY: <b>Daily</b></p>	\$_____	\$_____	\$_____
5.	<p>METAL CLEANING: All cleaned metal surfaces are without deposits or tarnish and with a uniformly bright appearance. Cleaner is to be removed from adjacent surfaces.</p> <p>AREA INVOLVED: All restroom and sink fixtures</p> <p>FREQUENCY: <b>Daily</b></p>	\$_____	\$_____	\$_____
6.	<p>SPOT CLEANING: A surface adequately spot cleaned is free of all stains, deposits, and is substantially free of cleaning marks.</p> <p>AREA INVOLVED: Any soiled area including baseboards</p> <p>FREQUENCY: <b>As needed</b></p>	\$_____	\$_____	\$_____
7.	<p>ENTRY WINDOW CLEANING: Glass surface shall be free of finger prints, film, streaks, and tape with a uniformly clear appearance.</p> <p>AREA INVOLVED: All glass and mirrors</p> <p>FREQUENCY: <b>Daily</b></p>	\$_____	\$_____	\$_____
8.	<p>DUSTING: A properly dusted surface is free of all dirt and dust streaks, lint, and cobwebs.</p> <p>AREA INVOLVED: All horizontal surfaces including all <u>horizontal blinds</u>, ceiling vents &amp; base boards..</p> <p>FREQUENCY: <b>Weekly</b></p>	\$_____	\$_____	\$_____
9.	<p>DAMP MOPPING: A satisfactorily damp mopped floor is without dirt, dust, marks, film, streaks, debris, or standing water.</p> <p>AREA INVOLVED: All hard surface floors, including entry ways</p> <p>FREQUENCY: <b>Daily</b></p>	\$_____	\$_____	\$_____

	DESCRIPTION OF TASK AND EXPECTED FREQUENCY BID AMT:	ANNUAL OFFICES	ANNUAL FOYER	TOTAL
10	<p>SCRUBBING: Scrubbing is satisfactorily performed when all surfaces are with out imbedded dirt, cleaning solution, film, debris, stains, marks, standing water, and floor has uniformly clean appearance</p> <p>AREA INVOLVED: All hard surface floors</p> <p>FREQUENCY <b>OFFICES</b> - At least once a month, more if conditions require</p> <p>FOYER - At least <u>twice</u> a month, more if conditions require</p>	\$_____	\$_____	\$_____
11	<p>BUFFING OR FINISHED FLOOR SURFACES: All finished floors will be buffed for maximum gloss, removal of surface dirt, and a uniform appearance.</p> <p>AREA INVOLVED: All finished hard surface floors</p> <p>FREQUENCY: At least monthly, more frequently if conditions warrant</p>	\$_____	\$_____	\$_____
12	<p>CARPET CLEANING: <b>OFFICE ONLY:</b> Periodic cleaning of carpets, shall be accomplished by steam cleaning or other methods in use.</p> <p>AREA INVOLVED: All carpet floor surfaces</p> <p>FREQUENCY: At least twice annually, spot cleaning as necessary</p>	\$_____	\$_____	\$_____
13	<p>LIGHT FIXTURE/VENT CLEANING: Fixtures/vents shall be washed free of dirt and dust streaks, lint and cobwebs.</p> <p>AREA INVOLVED: All light fixtures and ceiling vents</p> <p>FREQUENCY: <b>At least once annually</b></p>	\$_____	\$_____	\$_____
14	<p>VACUUM/CLEANING OF BLINDS: Blinds shall be vacuumed free of dust and dirt streaks, lint and cobwebs. Spot clean any fabric blinds as necessary.</p> <p>AREA INVOLVED: All vertical blinds</p> <p>FREQUENCY: <b>At least once annually</b></p>	\$_____	\$_____	\$_____
15	<p>FLOOR FINISH REMOVAL: Finish removal is accomplished when surfaces have all finish removed to the flooring material, are free of dirt, stains, deposits, debris, cleaning solution, standing water and floor has uniform appearance when dry. Plain water rinse and pickup must follow finish removal immediately.</p> <p>AREA INVOLVED: All appropriate hard surface floors</p> <p>FREQUENCY: At least once every five (5) years, more frequently if conditions warrant</p> <p>NOTE: Assess condition at time of site visit to indicate necessity of this service.</p>	\$_____	\$_____	\$_____
16	<p>FLOOR FINISHING: Undertaken by powered machines. Finishing and sealing includes: 1) proper cleaning &amp; preparation of surface including removal of residue/ previous washings, 2) proper rinsing of floors to remove all soap residue, 3) application of a minimum of three coats of floor finish on scrubbed floor and five coats on stripped floors.</p> <p>AREA INVOLVED: All appropriate hard surface floors</p> <p>FREQUENCY: At least once every five (5) years, more frequently if conditions warrant</p> <p>NOTE: Floors must be finished in accordance with manufacturers recommended standards using a UL listed slip resistant floor finish. Assess condition at site visit.</p>	\$_____	\$_____	\$_____
17	<p>EXTERIOR WINDOW CLEANING: All exterior windows to be cleaned inside and out.</p> <p>AREA INVOLVED: All glass surfaces and windows.</p> <p>FREQUENCY: <b>Twice annually, once in the fall and spring</b></p>	\$_____	\$_____	\$_____



	DESCRIPTION OF TASK AND EXPECTED FREQUENCY BID AMT:	ANNUAL OFFICES	ANNUAL FOYER	TOTAL
18	<p>INTERIOR WINDOW CLEANING: All interior windows into offices interior office doors w/windows</p> <p>AREA INVOLVED: All interior windows into offices plus all interior doors with window. Window sills shall be cleaned free of dirt and dust.</p> <p>FREQUENCY: <b>Once a week</b></p>	\$_____	\$_____	\$_____
19	<p>BATHROOM TILE: Wiping down the tile in the bathrooms</p> <p>AREA INVOLVED: All bathrooms</p> <p>FREQUENCY: <b>As needed</b></p>	\$_____	\$_____	\$_____
20	<p>WASHING WALLS &amp; LIGHT SWITCHES: Spot cleaning all painted walls &amp; Light Switches as necessary</p> <p>AREA INVOLVED: Hallways, offices and bathrooms</p> <p>FREQUENCY: <b>As needed</b></p>	\$_____	\$_____	\$_____
	SERVICES WORKSHEET TOTALS:	\$_____	\$_____	\$_____

**GRAND TOTAL FOR ALL ANNUAL SERVICES LISTED: \$\_\_\_\_\_**

# BID REQUEST SPECIFICATION #02-125

## CLEANING SERVICE FOR Fire H.Q.

**BIDS DUE: 12:00 NOON**  
**DATE: Wednesday, May 22, 2002**

**ADDENDA RECEIPT:** The receipt of the addenda to the specification number \_\_\_\_ through \_\_\_\_ is hereby acknowledged. Failure of any bidder to receive any addenda or interpretation shall not relieve the bidder from obligations specified in the bid request. All addenda shall become part of the final contract document.

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The undersigned summiteer, having full knowledge of the requirements of The City of Lincoln for the above listed project, the Contract Documents and all other terms and conditions of the request, agrees to provide the labor, certificate of insurance, unemployment compensation, materials and equipment in strict accordance with the specifications as prepared by the City for the consideration of the amount set forth in the following price schedule:

1. Contractor's price proposal to provide cleaning services as specified for the period beginning:

1.1 Annual Bid (July 1, 2002 through August 31, 2003)

TOTAL ANNUAL LUMP SUM OFFER: \$ \_\_\_\_\_

CONTRACTOR TO BE PAID MONTHLY  
IN TWELVE EQUAL INSTALLMENTS OF: \$ \_\_\_\_\_ /mo.

NOTE: total of these monthly installments times 12 should equal the "Lump Sum Offer listed above.

2. List three commercial references below:

2.1 Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Approx. Annual Contract Value: \$ \_\_\_\_\_ # of sq. ft. cleaned: \_\_\_\_\_

How long have you had this account/customer: \_\_\_\_\_

2.2    Company Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
Approx. Annual Contract Value: \$\_\_\_\_\_ # of sq. ft. cleaned: \_\_\_\_\_  
How long have you had this account/customer: \_\_\_\_\_

2.3    Company Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
Approx. Annual Contract Value: \$\_\_\_\_\_ # of sq. ft. cleaned: \_\_\_\_\_  
How long have you had this account/customer: \_\_\_\_\_

2.4    List any contracts (either past or present) you have held with the City or County:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. COMPANY BACKGROUND:

3.1    How long has your firm been performing commercial cleaning services?

- 3.2 How many full time employees does your firm have (working at least 36 hours/week)?
- 3.3 How many part time employees does your firm have?
- 3.4 Detail your arrival and departure schedule from our facility (indicating an estimate of daily, weekly and (if appropriate) any annual hours?
- 3.5 Detail your process for resolution of complaints or customer concerns?
4. The City intends to enter into a contract agreement with the successful bidder for a One (1) year period with the option to renew for two (2) additional One (1) year periods. All pricing must remain firm for the first full twelve month period of the contract.

Do you agree? ☐ YES ☐ NO, \_\_\_\_\_

- 4.1 After the first 12 month period, prices may be adjusted only once annually based on current inflation and actual expenses generated from the service. The City must receive a 90 day notice, in writing of any increase in price.

Do you agree? ☐ YES ☐ NO, \_\_\_\_\_

5. The City is also interested in an option to renew for one (1) additional three (3) year period (offer to renew will be mutually determined at the conclusion of the initial contract). All terms and conditions of the renewal period will be identical to the original contract period, unless mutually agreed upon via standard contract addendum process.

Will you consider the renewal offer, if extended by the City? ☐ YES ☐ NO

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**NOTE: RETURN 2 COMPLETE COPY OF BID OFFER AND SUPPORTING MATERIAL  
MARK OUTSIDE OF BID ENVELOPE AS FOLLOWS: SEALED BID FOR SPEC. NO. 02-125**

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The undersigned signatory of the bidder represents and warrants that he has full and complete authority to submit this offer to the City of Lincoln, and to enter into a contract if this offer is accepted.

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**COMPANY NAME**

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**BY (Signature)**

---

**STREET ADDRESS or P.O. BOX**

---

**(Print Name)**

---

**CITY, STATE ZIP CODE**

---

**(Title)**

---

**TELEPHONE NO.**

---

**(Date)**

---

**FAX NO.**

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**EMPLOYER'S FEDERAL I.D. NO.  
OR SOCIAL SECURITY NUMBER**

BIDS MAY BE INSPECTED IN THE PURCHASING OFFICE AFTER TABULATION. IF YOU DESIRE A COPY OF THE BID TABULATION TO BE MAILED TO YOU, INCLUDE WITH YOUR BID A STAMPED SELF ADDRESSED ENVELOPE.

# INSTRUCTIONS TO BIDDERS

## CITY OF LINCOLN, NEBRASKA PURCHASING DIVISION

### **1. BIDDING PROCEDURE**

- 1.1 Bidder shall submit two (2) complete sets of the bid documents and all supporting material. All appropriate blanks shall be completed. Any interlineation, alteration or erasure on the specification document shall be initialed by the signer of the bid. Bidder shall not change the proposal form nor make additional stipulations on the specification document. Any amplified or qualifying information shall be on the bidder's letterhead and firmly attached to the specification document.
- 1.2 Bid prices shall be submitted on the Proposal Form included in the bid document.
- 1.3 Bidders may submit a bid on an "all or none" or "lump sum" basis, but should also submit a quotation on an item-by-item basis. Bidding documents shall be clearly marked indicating the kind of proposal being submitted.
- 1.4 Each bid must be legibly printed in ink or by typewriter, include the full name, business address, and telephone number of the bidder; and be signed in ink by the bidder.
- 1.5 A bid by a firm or organization other than a corporation must include the name and address of each member.
- 1.6 A bid by a corporation must be signed in the name of such corporation by a duly authorized official thereof.
- 1.7 Any person signing a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.8 Bids received after the time and date established for receiving bids will be rejected.

### **2. BIDDER'S SECURITY**

- 2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bidder's bond, may be required to be submitted with this bid document, as indicated of the Proposal Form.
- 2.2 If alternate bids are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.
- 2.3 Such bid security will be returned to the unsuccessful bidders when the award of bid is made.
- 2.4 Bid security will be returned to the successful bidder(s) as follows:
  - 2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by the City.
  - 2.4.2 For all other contracts: upon approval by the City of the executed contract and bonds.
- 2.5 City shall have the right to retain the bid security of bidders to whom an award is being considered until either:
  - 2.5.1 A contract has been executed and bonds have been furnished.
  - 2.5.2 The specified time has elapsed so that the bids may be withdrawn.
  - 2.5.3 All bids have been rejected.

- 2.6 Bid security will be forfeited to the City as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this specification document:

- 2.6.1 If the bidder fails to deliver the equipment or merchandise in full compliance with the accepted proposal and specifications.
- 2.6.2 If the bidder fails or refuses to enter into a contract on forms provided by the City, and/or if the bidder fails to provide sufficient bonds or insurance within the time period as established in this specification document.

### **3. EQUAL OPPORTUNITY**

- 3.1 Each bidder agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age, or marital status. Bidder shall fully comply with the provisions of Chapter 11.08 of the Lincoln Municipal Code.
- 3.2 Successful bidder will be required to comply with the provisions of the City's Affirmative Action Policy (Contract Compliance, Sec. 1.16).
- 3.3 The Equal Opportunity Officer will determine compliance or non-compliance with the City's Affirmative Action Policy upon a complete and substantial review of successful bidder's equal opportunity policies, procedures and practices.

### **4. DATA PRIVACY**

- 4.1 Bidder agrees to abide by all applicable State and Federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.
- 4.2 The bidder agrees to hold the City harmless from any claims resulting from the bidder's unlawful disclosure or use of private or confidential information.

### **5. BIDDER'S REPRESENTATION**

- 5.1 Each bidder by signing and submitting a bid, represents that the bidder has read and understands the specification documents, and the bid has been made in accordance therewith.
- 5.2 Each bidder for services further represents that the bidder is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bid documents.

### **6. INDEPENDENT PRICE DETERMINATION**

- 6.1 By signing and submitting this bid, the bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder prior to bid opening

directly or indirectly to any other bidder or to any competitor; no attempt has been made, or will be made, by the bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

## **7. CLARIFICATION OF SPECIFICATION DOCUMENTS**

- 7.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the specification documents.
- 7.2 Bidders desiring clarification or interpretation of the specification documents shall make a written request which must reach the Purchasing Agent at least seven (7) calendar days prior to the date and time for receipt of bids.
- 7.3 Interpretations, corrections and changes made to the specification documents will be made by written addenda.
- 7.4 Oral interpretations or changes to the Specification Documents made in any other manner, will not be binding on the City; and bidders shall not rely upon such interpretations or changes.

## **8. ADDENDA**

- 8.1 Addenda are written instruments issued by the City prior to the date for receipt of bids which modify or interpret the specification document by addition, deletion, clarification or correction.
- 8.2 Addenda will be mailed or delivered to all who are known by the City to have received a complete set of specification documents.
- 8.3 Copies of addenda will be made available for inspection at the office of the Purchasing Agent.
- 8.4 No addendum will be issued later than forty-eight (48) hours prior to the date and time for receipt of bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.
- 8.5 Bidders shall ascertain prior to submitting their bid that they have received all addenda issued, and they shall acknowledge receipt of addenda on the proposal form.

## **9. BRAND NAMES**

- 9.1 Wherever in the specifications or proposal form brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.
- 9.2 It is the bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of the City that said item is equal to, or better than, the product specified.
- 9.3 Bids for alternate items shall be stated in the appropriate brand on the proposal form, or if the proposal form does not contain blanks for alternates, bidder MUST attach to the specification documents on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation. The bidder must indicate any variances by item number from the specification document no matter how slight. Bidder must fully explain the variances from the specification document, since brochure information may not be sufficient.

- 9.4 If variations are not stated in the proposal, it will be assumed that the item being bid fully complies with the City's specifications.

## **10. DEMONSTRATIONS/SAMPLES**

- 10.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from the City.
- 10.2 Such demonstration can be at the City delivery location or a surrounding community.
- 10.3 If bidder does not have an item in the area, it will be at the bidder's expense to send appropriate City personnel to the nearest location to view and inspect proposed item(s).
- 10.4 If items are small and malleable, and the bidder is proposing an alternate product, the bidder MUST supply a sample of the exact item. Samples will be returned at bidder's expense after receipt by the City of acceptable goods. Bidders must indicate how samples are to be returned.

## **11. DELIVERY**

- 11.1 Each bidder shall state on his proposal form the date upon which he can make delivery of all equipment or merchandise. Time required for delivery is hereby made an essential element of the bid.
- 11.2 The City reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the proposal form.
- 11.3 All bids shall be based upon **inside** delivery of the equipment or merchandise F.O.B. the City at the location specified by the City, with all transportation charges paid.

## **12. WARRANTIES, GUARANTEES AND MAINTENANCE**

- 12.1 Copies of the following documents must accompany the bid proposal for all items being bid:
  - 12.1.1 Manufacturer's warranties and/or guarantees.
  - 12.1.2 Bidder's maintenance policies and associated costs.
- 12.2 As a minimum requirement of the City, the bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to the City. Replacement parts of defective components shall be shipped at no cost to the City. Shipping costs for defective parts required to be returned to the bidder shall be paid by the bidder.
- 12.3 Bidder Warrants and represents to the City that all software/firmware/ hardware/equipment /systems developed, distributed, installed or programmed by Bidder pursuant to this Specification and Agreement.
  - 12.3.1 That all date recognition and processing by the software/firmware/hardware/equipment/system will include the four-digit-year format and will correctly recognize and process the date of February 29, and any related data, during Leap years; and
  - 12.3.2 That all date sorting by the software /firmware/hardware/ equipment/system that includes a "year category" shall be done based on the four-digit-year format. Upon being notified in writing by the City of the failure of any

software/ firmware/ hardware /equipment /systems to comply with this Specification and Agreement, Contractor will, within 60 days and at no cost to the City, replace or correct the non-complying software/ firmware/ hardware/ equipment/ systems with software/firmware/ hardware/equipment/ systems that does comply with this Specification and Agreement.

- 12.3.3 No Disclaimers: The warranties and representations set forth in this section 12.3 shall not be subject to any disclaimer or exclusion of warranties or to any limitations of Licensor's liability under this Specification and Agreement.

### **13. ACCEPTANCE OF MATERIAL**

- 13.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.
- 13.2 Material delivered under this proposal shall remain the property of the bidder until:
- 13.2.1 A physical inspection and actual usage of this material is made and found to be acceptable to the City; and
- 13.2.2 Material is determined to be in full compliance with the specifications and accepted proposal.
- 13.3 In the event the delivered material is found to be defective or does not conform to the specification documents and accepted proposal, then the City reserves the right to cancel the order upon written notice to the bidder and return materials to the bidder at bidder's expense.
- 13.4 Successful bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of the City of Lincoln, Nebraska, as required by the specification documents or purchase orders.
- 13.5 Selling dealer's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

### **14. BID EVALUATION AND AWARD**

- 14.1 The signed bid proposal shall be considered an offer on the part of the bidder. Such offer shall be deemed accepted upon issuance by the City of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 14.2 No bid shall be modified or withdrawn for a period of sixty (60) calendar days after the time and date established for receiving bids, and each bidder so agrees in submitting the bid.
- 14.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.

- 14.4 The bid will be awarded to the lowest responsive, responsible bidder whose proposal will be most advantageous to the City, and as the City deems will best serve their requirements.

- 14.5 The City reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, by groups, or "lump sum"; to waive irregularities and technicalities in bids; such as shall best serve the requirements and interests of the City.

### **15. INDEMNIFICATION**

- 15.1 The bidder shall indemnify and hold harmless the City, its members, its officers and employees from and against all claims, damages, losses, and expenses, including, but not limited to attorney's fees arising out of or resulting from the performance of the contract, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property other than goods, materials and equipment furnished under this contract) including the loss or use resulting therefrom; is caused in whole or part by any negligent act or omission of the bidder, any subcontractor, or anyone directly or indirectly employed by any one of them or anyone for whose acts made by any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder.
- 15.2 In any and all claims against the City or any of its members, officers or employees by an employee of the bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 15.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the bidder or any subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

### **16. TERMS OF PAYMENT**

- 16.1 Unless other specification provisions state otherwise, payment in full will be made by the City within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

### **17. LAWS**

- 17.1 The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this proposal and any agreement reached as a result of this process.

## INSURANCE CLAUSE TO BE USED FOR ALL CITY CONTRACTS

The Contractor shall indemnify and save harmless the City of Lincoln, Nebraska from and against all losses, claims, damages, and expenses, including attorney's fees, arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Contractor, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Contractor to indemnify or hold harmless the City of Lincoln for any losses, claims, damages, and expenses arising out of or resulting from the negligence of the City of Lincoln, Nebraska.

Contractor shall not commence work under this contract until he has obtained all insurance required under this Section and such insurance has been approved by the City Attorney for the City of Lincoln, nor shall the Contractor allow any sub-contractor to commence work on his subcontract until all similar insurance required of the sub-contractor has been so obtained and approved.

A. Worker's Compensation Insurance and Employer's Liability Insurance

The Contractor shall take out and maintain during the life of this contract the applicable statutory Worker's Compensation Insurance with an insurance company authorized to write such insurance in this state covering all his employees, and in the case of any work sublet, the Contractor shall require the subcontractor similarly to provide statutory Worker's Compensation Insurance for the latter's employees. The Contractor shall take out and maintain during the life of this contract, Employer's Liability Insurance with a limit of \$100,000 in an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each of his subcontractors similarly to maintain common law liability insurance on his employees.

State	Statutory
Applicable Federal	Statutory
Employer's Liability	\$100,000

B. General Liability Insurance

1. The Contractor shall maintain during the life of this contract, General Liability Insurance, naming and protecting him and the City of Lincoln, its officials, employees and volunteers as insured, against claims for damages resulting from (a) bodily injury, including wrongful death, (b) personal injury liability, and (c) property damage which may arise from operations under this contract whether such operations be by himself or by any subcontractor or anyone directly or indirectly employed by either of them. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:

A. Bodily Injury/Property Damage	\$1,000,000 each Occurrence
	\$2,000,000 Aggregate
B. Personal Injury Damage	\$1,000,000 each Occurrence
C. Contractual Liability	\$1,000,000 each Occurrence
D. Products Liability & Completed Operations	\$1,000,000 each Occurrence



2. The General Liability Insurance required by the preceding paragraph shall include the following extensions of coverage:
  - (a) The coverage shall be provided under a Commercial General Liability form or similar thereto.
  - (b) X.C.U. Coverage - if the contract requires any work procedures involving blasting, excavating, tunneling or other underground work, the liability coverage shall include Standard Blasting or Explosion Coverage, Standard Collapse Coverage, and Standard Underground Coverage commonly referred to as XCU Property Damage Liability.
  - (c) The property damage coverage shall include a Broad Form Property Damage Endorsement or similar thereto.
  - (d) Contractual Liability coverage shall be included.
  - (e) Products Liability and/or Completed Operations coverage shall be included.
  - (f) Personal Injury Liability coverage shall be included.

C. Automobile Liability Insurance

The Contractor shall take out and maintain during the life of the contract such Automobile Liability Insurance as shall protect him against claims for damages resulting from bodily injury, including wrongful death, and property damage which may arise from the operations of any owned, hired, or non-owned automobiles used by or for him in any capacity in connection with the carrying out of this contract. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

Bodily Injury and Property Damage      \$1,000,000 Combined Single Limit

D. Builder's Risk Insurance (For Building Construction Contracts Only)

Unless otherwise specified where buildings are to be constructed under this contract, the Contractor shall provide and maintain fire, extended coverage, vandalism, and malicious mischief insurance, covering such building in an amount equal to one-hundred percent (100%) of the contract amount (minimum), as specified herein.

Losses, if any, shall be made payable to the City of Lincoln and Contractor as their interest may appear. A Certificate of Insurance evidencing such insurance coverage shall be filed with the City of Lincoln by the time work on the building begins and such insurance shall be subjected to the approval of the City Attorney.

E. Minimum Scope of Insurance

All Liability Insurance policies shall be written on an "occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted by the City of Lincoln.

F. Certificate of Insurance

All certificates of insurance shall be filed with the City of Lincoln on the standard ACCORD CERTIFICATE OF INSURANCE form showing the specific limits of insurance coverage required by the preceding Sections A, B, C, D, and showing the City of Lincoln as an additional insured. Such certificate shall specifically state that insurance policies are to be endorsed to require the insurer to provide the City of Lincoln thirty days, notice of cancellation, non-renewal or any material reduction of insurance coverage.

CONTRACT DOCUMENTS

CITY OF LINCOLN

NEBRASKA

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CITY OF LINCOLN, NEBRASKA

CONTRACT AGREEMENT

THIS CONTRACT, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2002, by and between \_\_\_\_\_ hereinafter called contractor, and the City of Lincoln, Nebraska, a municipal corporation, hereinafter called the City.

WITNESS, that:

WHEREAS, the City has caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

\_\_\_\_\_ and,

WHEREAS, the Contractor, in response to such advertisement, has submitted to the City, in the manner and at the time specified, a sealed Proposal in accordance with the terms of said advertisement; and,

WHEREAS, the City, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the Contractor's Proposal, a copy thereof being attached to and made a part of this Contract;

EQUAL EMPLOYMENT OPPORTUNITY: In connection with the carrying out of this project, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the agreements herein contained, the Contractor and the City have agreed and hereby agree as follows:

The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other construction accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute construct, and compete all Work included in and covered by the City's award of this Contract to the Contractor, such award being based on the acceptance by the City of the Contractor's Proposal, or part thereof, as follows:

The City agrees to pay to the Contractor for the performance of the Work embraced in this Contract, the Contractor agrees to accept as full compensation therefor, the following sums and prices for all Work covered by and included in the Contract award and designated above, payment thereof to be made in the manner provided by the City:

\$

## CONTRACT AGREEMENT

The Work included in this Contract shall begin as soon as possible from date of executed contract. The completion shall be \_\_\_\_\_.

### GUARANTEE:

A performance bond in the full amount of the contract shall be required for all construction contracts. This bond shall remain in effect during the guarantee period as stated in the specifications.. Once the project is completed, the contractor may submit a maintenance bond in place of the performance bond.

The Contract Documents comprise the Contract, and consist of the following:

1. The Instructions to Bidders
2. The Accepted Proposal
3. The Contract Agreements
4. The Specifications
- \*5. The City of Lincoln Standard Specifications for Municipal Construction
  - a. General Conditions
  - b. General Specifications
  - c. Construction & Materials Specifications
- \*\* 6. The Plans (including the Schedule of Approximate Quantities)
7. The Construction Bonds
8. The Special Provisions

\* If project includes paving, water, sewer, sidewalk, lighting or traffic signal work, the City of Lincoln Standard Specifications for Municipal Construction will apply, which are on file in the office of the City Clerk. Copies may be obtained at the Office of the City Engineer.

\*\* The following is an enumeration of the Plans, which are entitled:

## CONTRACT AGREEMENT

These Contract Agreements, together with the other Contract Documents herein above mentioned, form this Contract, and the are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and the City hereby agree that all the terms and conditions of this Contract shall by these presents be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the City do hereby execute this contract.

### EXECUTION BY THE CITY OF LINCOLN, NEBRASKA

ATTEST:

CITY OF LINCOLN, NEBRASKA

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Approved by Executive or No. \_\_\_\_\_  
dated \_\_\_\_\_

### EXECUTION BY CONTRACTOR

IF A CORPORATION:

\_\_\_\_\_  
Name of Corporation

\_\_\_\_\_  
(Address)

ATTEST:

\_\_\_\_\_  
Secretary (SEAL)

By: \_\_\_\_\_  
Duly Authorized Official

\_\_\_\_\_  
Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

\_\_\_\_\_  
Name of Organization

\_\_\_\_\_  
Type of Organization

\_\_\_\_\_  
(Address)

By: \_\_\_\_\_  
Member

By: \_\_\_\_\_  
Member

IF AN INDIVIDUAL:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature

#### A. GENERAL INFORMATION

There are two types of construction bonds that are required by statutes for public work in many jurisdictions and are widely used for other projects as well.

##### Construction Performance Bond

##### Construction Payment Bond

The Construction Performance Bond is an instrument that is used to assure the availability of funds to complete the construction.

The Construction Payment Bond is an instrument that is used to assure the availability of sufficient funds to pay for labor, materials and equipment used in the construction. For public work the Construction Payment Bond provides rights of recovery for workers and suppliers similar to their rights under the mechanics lien laws applying to private work.

The objective underlying the re-writing of construction bond forms was to make them more understandable to provide guidance to users. The intention was to define the rights and responsibilities of the parties, without changing the traditional rights and responsibilities that have been decided by the courts. The new bond forms provide helpful guidance regarding time periods for various notices and actions and clarify the extent of available remedies.

The concept of pre-default meeting has been incorporated into the Construction Performance Bond. All of the participants favored early and informal resolution of the problems that may precipitate a default, but some Surety companies were reluctant to participate in pre-default settings absent specific authorization in the bond form.

The responsibilities of the Owner and the options available to the Surety when a default occurs are set forth in the Construction Performance Bond. Procedures for making a claim under the Construction Payment Bond are set forth in the form.

EJCDC recommends the use of two separate bonds rather than a combined form. Normally the amount of each bond is 100 percent of the contract amount. The bonds have different purposes and are separate and distinct obligations of the Surety. The Surety Association reports that the usual practice is to charge a single premium for both bonds and there is no reduction in premium for using a combined form or for issuing one bond without the other.

#### B. COMPLETING THE FORMS

Bonds have important legal consequences; consultation with an attorney and a bond specialist is encouraged with respect to federal, state and local laws applicable to bonds and with respect to completing or modifying the bond forms.

Both bond forms have a similar format and the information to be filled in is ordinarily the same on both bonds. If modification is necessary, the modifications may be different.

The bond forms are prepared for execution by the Contractor and the Surety. Evidence of authority to bind the Surety is usually provided in the form of a power of attorney designating the agent who is authorized to sign on behalf of the Surety. The power of attorney should be filed with the signed bonds.

Each bond must be executed separately since they cover separate and distinct obligations.

Preferably the bond date should be the same date as the contract, but in no case should the bond date precede the date of the contract.

## CONSTRUCTION PERFORMANCE BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

---

CONTRACTOR (Name and Address):

SURETY (Name and Principal  
Place of Business):

Owner (Name and Address):

City of Lincoln

555 South 10th St.

Lincoln, NE 68508

CONSTRUCTION CONTRACT

Date:

Amount: \$

Description (Name and Location):

BOND

Date (Not earlier than Construction Contract Date)

Amount: \$

Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)

SURETY

Company: (Corp. Seal)

Signature: \_\_\_\_\_

Name and Title:

Signature: \_\_\_\_\_

Name and Title:

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)

SURETY

Company: (Corp. Seal)

Signature: \_\_\_\_\_

Name and Title:

Signature: \_\_\_\_\_

Name and Title:

EJCDC NO. 1910-28a (1984 Edition)

Prepared through the joint efforts of The Surety Assoc. of America. Engineers' Joint Contract Documents Committee. The Associated General Contractors of America, and the American Institute of Architects.

1. The Contractor and the Surety, jointly and severally, bind themselves their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.
3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
  - 3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below, that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default and
  - 3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and
  - 3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.
4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
  - 4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract, or
  - 4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors: or
  - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default, or
  - 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
    1. After investigation, determine the amount for which it may be liable to the Owner and as soon as practicable after the amount is determined tender payment therefor to the Owner; or
    2. Deny liability in whole or in part and notify the Owner citing reasons therefor.
5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4 and the Owner refuses payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
6. After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:
  - 6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
  - 6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and
  - 6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.
8. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related sub-contracts, purchase orders and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
12. Definitions.
  - 12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
  - 12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
  - 12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.
  - 12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.



CONSTRUCTION PAYMENT BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

---

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place  
Of Business):

Owner (Name and Address):

City of Lincoln  
555 South 10th St.  
Lincoln, NE 68508

CONSTRUCTION CONTRACT

Date:

Amount: \$

Description (Name and Location):

BOND

Date (Not earlier than Construction Contract Date):

Amount: \$

Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)

SURETY

Company: (Corp. Seal)

Signature: \_\_\_\_\_

Name and Title:

Signature: \_\_\_\_\_

Name and Title:

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)

SURETY

Company: (Corp. Seal)

Signature: \_\_\_\_\_

Name and Title:

Signature: \_\_\_\_\_

Name and Title:

EJCDC NO. 1910-28B (1984 Edition)

Prepared through the joint efforts of The Surety Assoc. of America. Engineers' Joint Contract Documents Committee. The Associated General Contractors of America, and the American Institute of Architects.

1. The Contractor and the Surety, jointly and severally, bind themselves their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.
  2. With respect to the Owner, this obligation shall be null and void if the Contractor:
    - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
    - 2.2 Defends, indemnifies and holds harmless the Owner from all claims, demands, liens or suits by any person or entity who furnished labor, materials or equipment for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.
  3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
  4. The Surety shall have no obligation to Claimants under this Bond until:
    - 4.1 Claimants who do not have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof to the Owner, stating that a claim is being made under this Bond and with substantial accuracy the amount of the claim.
    - 4.2 Claimants who do not have a direct contract with the Contractor:
      1. Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed, and
      2. Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
      3. Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.
  5. If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.
  6. When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:
    - 6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
    - 6.2 Pay or arrange for payment of any undisputed amounts.
  7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
  8. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond.
- By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to the funds for the completion of the work.
9. The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
  10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
  11. No suite or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.1 (iii), or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
  12. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
  13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is, that this Bond shall be construed as a statutory bond and not as a common law bond.
  14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
  15. DEFINITIONS
    - 15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials, or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.
    - 15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
    - 15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.